

**TOWN OF DAVIE**  
**TOWN COUNCIL AGENDA REPORT**

**TO:** Mayor and Council Members

**FROM/PHONE:** Frank Apicella, TIM Director / 954-797-1063

**PREPARED BY:** Frank Apicella

**SUBJECT:** Resolution

**AFFECTED DISTRICT:** N/A

**ITEM REQUEST:** **Schedule for Council Meeting**

**TITLE OF AGENDA ITEM:** A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT TO PROVIDE SUPPORT AND MAINTENANCE SERVICES OF PREMIER MDC LAPTOP COMPUTER SOFTWARE.

**REPORT IN BRIEF:** Motorola Premier MDC Technology enables officers to quickly obtain information which is normally retrieved via radio contact with a dispatch center, or that previously could not be accessed at all. Premier MDC give officers access to federal, state and local databases with an easy single entry check using advanced radio technology with compressed and encrypted data transmissions. Premier MDC helps to fight crime with wireless technology which plays an important role in tackling the issues of public safety today; giving officers first hand knowledge of a potential criminal or dangerous situation before making contact with an individual or suspect. During a traffic stop, the officer is able to enter the license plate number to obtain information about the vehicle and driver, driver license status, arrest warrants and more. This information can be critical to an officer who may suddenly be faced with a dangerous situation, which started out as a routine traffic stop.

**PREVIOUS ACTIONS:** **R-2002-055**

**CONCURRENCES:** The contract has been reviewed and approved by the Town Attorney's office

**FISCAL IMPACT:** Yes

Has request been budgeted? Yes

If yes, expected cost: \$ 43,900

Account Name: Police Department Communications & Freight account  
001-0507-521-4101

What account will funds be appropriated from:

Additional Comments: Motorola is the Sole Source provider of support and maintenance of the Motorola product.

**RECOMMENDATION(S):** Motion to approve

**Attachment(s):** Contract (attachment "A")

## RESOLUTION

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT TO PROVIDE SUPPORT AND MAINTENANCE SERVICES OF PREMIER MDC LAPTOP COMPUTER SOFTWARE.

WHEREAS, the Town's previous maintenance contract has expired; and

WHEREAS, the Police Department is continuing to use the Premier MDC Laptop computer software to run teletype messaging, mapping and paging; and

WHEREAS, Motorola is a Sole Source provider of support and maintenance of the Motorola product; and

WHEREAS, this continued used will require support and maintenance.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA:

SECTION 1: The Town Council of the Town of Davie, hereby authorizes the Mayor to execute a contract to provide support and maintenance services of Premier MDC laptop computer software.

SECTION 2: The Town Council hereby authorizes the expenditure from the Police Department Communication and Freight Account

SECTION 3: This Resolution shall take affect immediately upon its passage and adoption.

PASSED AND ADOPTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2007.

\_\_\_\_\_  
MAYOR/COUNCILMEMBER

ATTEST:

\_\_\_\_\_  
TOWN CLERK

APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2007.

## **Maintenance and Support Agreement**

Motorola, Inc., a Delaware corporation ("Motorola" or "Seller") having a place of business at 1250 North Tustin Ave., Anaheim, CA 92807 and Davie Police Department ("Customer"), having a place of business at 1230 South Nob Hill Road, enter into this Maintenance and Support Agreement ("Agreement"), pursuant to which Customer will purchase and Seller will sell the maintenance and support services as described below and in the attached exhibits. Seller and Customer may be referred to individually as "party" and collectively as "parties."

For good and valuable consideration, the parties agree as follows.

### **Section 1 EXHIBITS**

The Exhibits listed below are incorporated into and made a part of this Agreement. In interpreting this Agreement and resolving any ambiguities, the main body of this Agreement will take precedence over the Exhibits and any inconsistency between the Exhibits will be resolved in the order in which they are listed below.

Exhibit A	"Description of Covered Products"
Exhibit B	"Support Plan"
Exhibit C	"Support Plan Options and Pricing Worksheet"
Exhibit D	"Billable Rates"

### **Section 2 DEFINITIONS**

"Equipment" means the physical hardware purchased by Customer from Seller pursuant to a separate System Agreement, Products Agreement, or other form of agreement.

"Motorola" means Motorola, Inc., a Delaware corporation.

"Motorola Software" means Software that Motorola owns. The term includes Product Releases, Standard Releases, and Supplemental Releases.

"Non-Motorola Software" means Software that a party other than Motorola owns.

"Optional Technical Support Services" means fee-based technical support services that are not covered as part of the standard Technical Support Services.

"Patch" means a specific change to the Software that does not require a Release.

"Principal Period of Maintenance" or "PPM" means the specified days, and times during the days, that maintenance and support services will be provided under this Agreement. The PPM selected by Customer is indicated in the Support Plan Options and Pricing Worksheet.

"Products" means the Equipment (if applicable as indicated in the Description of Covered Products) and Software provided by Seller.

"Releases" means an Update or Upgrade to the Motorola Software and are characterized as "Supplemental Releases," "Standard Releases," or "Product Releases." A "Supplemental Release" is defined as a minor release of Motorola Software that contains primarily error corrections to an existing Standard Release and may contain limited improvements that do not affect the overall structure of the Motorola Software. Depending on Customer's specific configuration, a Supplemental Release might not be applicable. Supplemental Releases are identified by the third digit of the three-digit release number, shown here as underlined: "1.2.3". A "Standard Release" is defined as a major release of Motorola Software that contains product enhancements and improvements, such as new databases, modifications

to databases, or new servers. A Standard Release may involve file and database conversions, System configuration changes, hardware changes, additional training, on-site installation, and System downtime. Standard Releases are identified by the second digit of the three-digit release number, shown here as underlined: "1.2.3". A "Product Release" is defined as a major release of Motorola Software considered to be the next generation of an existing product or a new product offering. Product Releases are identified by the first digit of the three-digit release number, shown here as underlined: "1.2.3". If a question arises as to whether a Product offering is a Standard Release or a Product Release, Motorola's opinion will prevail, provided that Motorola treats the Product offering as a new Product or feature for its end user customers generally.

"Residual Error" means a software malfunction or a programming, coding, or syntax error that causes the Software to fail to conform to the Specifications.

"Services" means those maintenance and support services described in the Support Plan and provided under this Agreement.

"Software" means the Motorola Software and Non-Motorola Software that is furnished with the System or Equipment.

"Specifications" means the design, form, functionality, or performance requirements described in published descriptions of the Software, and if also applicable, in any modifications to the published specifications as expressly agreed to in writing by the parties.

"Standard Business Day" means Monday through Friday, 8:00 a.m. to 5:00 p.m. local time, excluding established Motorola holidays.

"Standard Business Hour" means a sixty (60) minute period of time within a Standard Business Day(s).

"Start Date" means the date upon which this Agreement begins. The Start Date is specified in the Support Plan Options and Pricing Worksheet.

"System" means the Products and services provided by Seller as a system as more fully described in the Technical and Implementation Documents attached as exhibits to a System Agreement between Customer and Seller (or Motorola).

"Technical Support Services" means the remote telephonic support provided by Seller on a standard and centralized basis concerning the Products, including diagnostic services and troubleshooting to assist Customer in ascertaining the nature of a problem being experienced by the Customer, minor assistance concerning the use of the Software (including advising or assisting the Customer in attempting data/database recovery, database set up, client-server advice), and assistance or advice on installation of Releases provided under this Agreement.

"Update" means a Supplemental Release or a Standard Release.

"Upgrade" means a Product Release.

### **Section 3      SCOPE AND TERM OF SERVICES**

3.1. In accordance with the provisions of this Agreement and in consideration of the payment by Customer of the price for the Services, Seller will provide to Customer the Services as indicated in the Support Plan Options and Pricing Worksheet, and Services will apply only to the Products described in the Description of Covered Products.

3.2. Unless the Support Plan Options and Pricing Worksheet expressly provides to the contrary, the term of this Agreement is one (1) year, beginning on the Start Date. This annual maintenance and support period will automatically renew upon the anniversary date for successive one (1) year periods

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unless either party notifies the other of its intention to not renew the Agreement (in whole or part) not less than thirty (30) days before the anniversary date or this Agreement is terminated for default by a party.

3.3. This Agreement covers all copies of the specified Software listed in the Description of Covered Products that are licensed by Seller to Customer. If the price for Services is based upon a per unit fee, such price will be calculated on the total number of units of the Software that are licensed to Customer as of the beginning of the annual maintenance and support period. If, during an annual maintenance and support period, Customer acquires additional units of the Software that is covered by this Agreement, the price for maintenance and support services for those additional units will be calculated and added to the total price either (1) if and when the annual maintenance and support period is renewed or (2) immediately when Customer acquires the additional units, as Motorola determines. Seller may adjust the price of the maintenance and support services effective as of a renewal if it provides to Customer notice of the price adjustment at least forty-five (45) days before the expiration of the annual maintenance and support period. If Customer notifies Seller of its intention not to renew this Agreement as permitted by Section 3.2 and later wishes to reinstate this Agreement, it may do so with Seller's consent provided (a) Customer pays to Seller the amount that it would have paid if Customer had kept this Agreement current, (b) Customer ensures that all applicable Equipment is in good operating conditions at the time of reinstatement, and (c) all copies of the specified Software listed in the Description of Covered Products are covered.

3.4. When Seller performs Services at the location of installed Products, Customer agrees to provide to Seller, at no charge, a non-hazardous environment for work with shelter, heat, light, and power, and with full and free access to the covered Products. Customer will provide all information pertaining to the hardware and software with which the Products are interfacing to enable Seller to perform its obligations under this Agreement.

3.5. All Customer requests for covered Services will be made initially with the call intake center identified in the Support Plan Options and Pricing Worksheet.

3.6. Seller will provide to Customer Technical Support Services and Releases as follows:

3.6.1. Seller will provide unlimited Technical Support Services and correction of Residual Errors during the PPM in accordance with the exhibits. The level of Technical Support depends upon the Customer's selection as indicated in the Support Plan Options and Pricing Worksheet. Any Technical Support Services that are performed by Seller outside the contracted PPM and any Residual Error corrections that are outside the scope will be billed at the then current hourly rates. Technical Support Services will be to investigate specifics about the functioning of covered Products to determine whether there is a defect in the Product and will not be used in lieu of training on the covered Products.

3.6.2. Unless otherwise stated in paragraph 3.6.3 or if the Support Plan Options and Pricing Worksheet expressly provides to the contrary, Seller will provide to Customer without additional license fees an available Supplemental or Standard Release after receipt of a request from Customer, but Customer must pay for any installation or other services and any necessary Equipment or third party software provided by Seller in connection with such Supplemental or Standard Release. Any services will be performed in accordance with a mutually agreed schedule.

3.6.3. This paragraph applies only if Premier CAD is covered under this Agreement. After receipt of a request from Customer, Seller will provide to Customer, without charge, an available Standard Release of Premier CAD and base installation services. Base installation services are limited to the physical installation of the Standard Release on Customer's Premier CAD Server and Premier CAD Workstations. Customer must pay for any training or other services and any necessary Equipment or third party hardware or software provided by Seller in connection with such Standard Release. Seller's duty as described in this paragraph is contingent upon Customer's then-current installation at the time of Customer's request being within two (2) Standard Release versions of the new Standard Release available for general release. Any services will be performed in accordance with a mutually agreed schedule.



3.6.4. Seller will provide to Customer an available Product Release after receipt of a request from Customer, but Customer must pay for all additional license fees, any installation or other services, and any necessary Equipment provided by Seller in connection with such Product Release. Any services will be performed in accordance with a mutually agreed schedule.

3.6.5. Seller does not warrant that a Release will meet Customer's particular requirement, operate in the combinations that Customer will select for use, be uninterrupted or error-free, be backward compatible, or that all errors will be corrected. Full compatibility of a Release with the capabilities and functions of earlier versions of the Software may not be technically feasible. If it is technically feasible, services to integrate these capabilities and functions to the updated or upgraded version of the Software may be purchased at Customer's request on a time and materials basis at Seller's then current rates for professional services.

3.6.6. Except as provided in Section 3.6.7, Seller's responsibilities under this Agreement to provide Technical Support Services will be limited to the current Standard Release plus the two (2) prior Standard Releases (collectively referred to in this section as "Covered Standard Releases."). Notwithstanding the preceding sentence, Seller will provide Technical Support Services for a Severity Level 1 or 2 error concerning a Standard Release that precedes the Covered Standard Releases unless such error has been corrected by a Covered Standard Release (in which case Customer will install the Standard Release that fixes the reported error or terminate this Agreement as to the applicable Software).

3.6.7. Seller's responsibilities under this Agreement to provide Technical Support Services will be limited to the current Standard Release concerning the following Software: Customer Service Request, Case Management, Integration Framework, and Integration Framework Express.

3.7. The maintenance and support Services described in this Agreement are the only covered services. Unless Optional Technical Support Services are purchased, these Services specifically exclude and Seller will not be responsible for:

3.7.1. Any service work required due to incorrect or faulty operational conditions, including but not limited to Equipment not connected directly to an electric surge protector, or not properly maintained in accordance with the manufacturer's guidelines.

3.7.2. The repair or replacement of Products or parts resulting from failure of the Customer's facilities, Customer's personal property and/or devices connected to the System (or interconnected to devices) whether or not installed by Seller's representatives.

3.7.3. The repair or replacement of Equipment that has become defective or damaged due to physical or chemical misuse or abuse, Customer's negligence, or from causes such as lightning, power surges, or liquids.

3.7.4. Any transmission medium, such as telephone lines, computer networks, or the worldwide web, or for Equipment malfunction caused by such transmission medium.

3.7.5. Accessories, custom or Special Products; modified units; or modified Software.

3.7.6. The repair or replacement of parts resulting from the tampering by persons unauthorized by Seller or the failure of the System due to extraordinary uses.

3.7.7. Operation and/or functionality of Customer's personal property, equipment, and/or peripherals and any application software not provided by Seller.

3.7.8. Services for any replacement of Products or parts directly related to the removal, relocation, or reinstallation of the System or any System component.

3.7.9. Services to diagnose technical issues caused by the installation of unauthorized components or misuse of the System.

3.7.10 Services to diagnose malfunctions or inoperability of the Software caused by changes, additions, enhancements, or modifications in the Customer's platform or in the Software.

3.7.11 Services to correct errors found to be caused by Customer-supplied data, machines, or operator failure.

3.7.12. Operational supplies, including but not limited to, printer paper, printer ribbons, toner, photographic paper, magnetic tapes and any supplies in addition to that delivered with the System; battery replacement for uninterruptible power supply (UPS); office furniture including chairs or workstations.

3.7.13. Third-party software unless specifically listed on the Description of Covered Products.

3.7.14. Support of any interface(s) beyond Seller-provided port or cable, or any services that are necessary because third party hardware, software or supplies fail to conform to the specifications concerning the Products.

3.7.15. Services related to customer's failure to back up its data or failure to use an UPS system to protect against power interruptions.

3.7.16. Any design consultation such as, but not limited to, configuration analysis, consultation with Customer's third-party provider(s), and System analysis for modifications or Upgrades or Updates which are not directly related to a Residual Error report.

3.8. The Customer hereby agrees to:

3.8.1. Maintain any and all electrical and physical environments in accordance with the System manufacturer's specifications.

3.8.2. Provide standard industry precautions (e.g. back-up files) ensuring database security, per Seller's recommended backup procedures.

3.8.3. Ensure System accessibility, which includes physical access to buildings as well as remote electronic access. Remote access can be stipulated and scheduled with customer; however, remote access is required and will not be substituted with on-site visits if access is not allowed or available.

3.8.4. Appoint one or more qualified employees to perform System Administration duties, including acting as a primary point of contact to Seller's Customer Support organization for reporting and verifying problems, and performing System backup. At least one member of the System Administrators group must have completed Seller's End-User training and System Administrator training (if available). The combined skills of this System Administrators' group includes proficiency with: the Products, the system platform upon which the Products operate, the operating system, database administration, network capabilities such as backing up, updating, adding, and deleting System and user information, and the client, server and stand alone personal computer hardware. The System Administrator will follow the Residual Error reporting process described herein and make all reasonable efforts to duplicate and verify problems and assign a Severity Level according to definitions provided herein. Customer agrees to use reasonable efforts to ensure that all problems are reported and verified by the System Administrator before reporting them to Seller. Customer will assist Seller in determining that errors are not the product of the operation of an external system, data links between system, or network administration issues. If a Severity Level 1 or 2 Residual Error occurs, any Customer representative may contact Seller's Customer Support Center by telephone, but the System Administrator must follow up with Seller's Customer Support as soon as practical thereafter.

3.9. In performing repairs under this Agreement, Seller may use parts that are not newly manufactured but which are warranted to be equivalent to new in performance. Parts replaced by Seller will become Seller's property.

3.10 Customer will permit and cooperate with Seller so that Seller may periodically conduct audits of Customer's records and operations pertinent to the Services, Products, and usage of application and data base management software. If the results of any such audit indicate that price has been understated, Seller may correct the price and immediately invoice Customer for the difference (as well as any unpaid but owing license fees). Seller will limit the number of audits to no more than one (1) per year except Seller may conduct quarterly audits if a prior audit indicated the price had been understated.



3.11. If Customer replaces, upgrades, or modifies equipment, or replaces, upgrades, or modifies hardware or software that interfaces with the covered Products, Seller will have the right to adjust the price for the Services to the appropriate current price for the new configuration.

3.12 Customer agrees not to attempt or apply any update(s), alteration(s), or change(s) to the database software without the prior approval of the Seller.

#### **Section 4. RIGHT TO SUBCONTRACT AND ASSIGN**

Seller may assign its rights and obligations under this Agreement and may subcontract any portion of Seller's performance called for by this Agreement.

#### **Section 5. PRICING, PAYMENT AND TERMS**

5.1 Prices in United States dollars are shown in the Support Plan Options and Pricing Worksheet. Unless this exhibit expressly provides to the contrary, the price is payable annually in advance. Seller will provide to Customer an invoice, and Customer will make payments to Seller within twenty (20) days after the date of each invoice. During the term of this Agreement, Customer will make payments when due in the form of a check, cashier's check, or wire transfer drawn on a United States financial institution.

5.2. Overdue invoices will bear simple interest at the rate of ten percent (10%) per annum, unless such rate exceeds the maximum allowed by law, in which case it will be reduced to the maximum allowable rate.

5.3 If Customer requests, Seller may provide services outside the scope of this Agreement or after the termination or expiration of this Agreement and Customer agrees to pay for those services. These terms and conditions and the prices in effect at the time such services are rendered will apply to those services.

5.4 Price(s) are exclusive of any taxes, duties, export or customs fees, including Value Added Tax or any other similar assessments imposed upon Seller. If such charges are imposed upon Seller, Customer will reimburse Seller upon receipt of proper documentation of such assessments.

#### **Section 6. LIMITATION OF LIABILITY**

This limitation of liability provision applies notwithstanding any contrary provision in this Agreement. Except for personal injury or death, Seller's (including any of its affiliated companies) total liability arising from this Agreement will be limited to the direct damages recoverable under law, but not to exceed the price of the maintenance and support services being provided for one (1) year under this Agreement. **ALTHOUGH THE PARTIES ACKNOWLEDGE THE POSSIBILITY OF SUCH LOSSES OR DAMAGES, THEY AGREE THAT SELLER (INCLUDING ANY OF ITS AFFILIATED COMPANIES) WILL NOT BE LIABLE FOR ANY COMMERCIAL LOSS; INCONVENIENCE; LOSS OF USE, TIME, DATA, GOOD WILL, REVENUES, PROFITS OR SAVINGS; OR OTHER SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES IN ANY WAY RELATED TO OR ARISING FROM THIS AGREEMENT, THE SALE OR USE OF THE SYSTEM, EQUIPMENT OR SOFTWARE, OR THE PERFORMANCE OF SERVICES BY SELLER PURSUANT TO THIS AGREEMENT.** This limitation of liability will survive the expiration or termination of this Agreement. No action for breach of this Agreement or otherwise relating to the transactions contemplated by this Agreement may be brought more than one (1) year after the accrual of such cause of action, except for money due upon an open account.

#### **Section 7. DEFAULT/TERMINATION**

7.1. If Motorola breaches a material obligation under this Agreement (unless Customer or a Force Majeure causes such failure of performance), Customer may consider Motorola to be in default. If Customer asserts a default, it will give Motorola written and detailed notice of the default. Motorola will have thirty (30) days thereafter either to dispute the assertion or provide a written plan to cure the default that is acceptable to Customer. If Motorola provides a cure plan, it will begin implementing the cure plan immediately after receipt of Customer's approval of the plan.

7.2. If Customer breaches a material obligation under this Agreement (unless Motorola or a Force Majeure causes such failure of performance); if Customer breaches a material obligation under the Software License Agreement that governs the Software covered by this Agreement; or if Customer fails to pay any amount when due under this Agreement, indicates that it is unable to pay any amount when due, indicates it is unable to pay its debts generally as they become due, files a voluntary petition under bankruptcy law, or fails to have dismissed within ninety (90) days any involuntary petition under bankruptcy law, Motorola may consider Customer to be in default. If Motorola asserts a default, it will give Customer written and detailed notice of the default and Customer will have thirty (30) days thereafter to (i) dispute the assertion, (ii) cure any monetary default (including interest), or (iii) provide a written plan to cure the default that is acceptable to Motorola. If Customer provides a cure plan, it will begin implementing the cure plan immediately after receipt of Motorola's approval of the plan.

7.3. If a defaulting party fails to cure the default as provided above in Sections 7.1 or 7.2, unless otherwise agreed in writing, the non-defaulting party may terminate any unfulfilled portion of this Agreement and may pursue any legal or equitable remedies available to it subject to the provisions of Section 6 above.

7.4. Upon the expiration or earlier termination of this Agreement, Customer and Seller will immediately deliver to the other Party, as the disclosing Party, all Confidential Information of the other, including all copies thereof, which the other Party previously provided to it in furtherance of this Agreement. Confidential Information includes: (a) proprietary materials and information regarding technical plans; (b) any and all other information, of whatever type and in whatever medium including data, developments, trade secrets and improvements, that is disclosed by Seller to Customer in connection with this Agreement; (c) all geographic information system, address, telephone, or like records and data provided by Customer to Seller in connection with this Agreement that is required by law to be held confidential.



## **Section 8. GENERAL TERMS AND CONDITIONS**

8.1. Notices required under this Agreement to be given by one party to the other must be in writing and either delivered in person or sent to the address shown below by certified mail, return receipt requested and postage prepaid (or by a recognized courier service), or by facsimile with correct answerback received, and will be effective upon receipt.

Customer: Davie Police Department  
Attn: Gary Kilam  
1230 South Nob Hill Road  
Davie, FL 33324

Seller, Motorola, Inc.  
Attn: Customer Support Contracts  
1250 North Tustin Ave.  
Anaheim, CA 92807  
(714) 237-0050 (fax)

8.2. Neither party will be liable for its non-performance or delayed performance if caused by an event, circumstance, or act of a third party that is beyond such party's reasonable control.

8.3. Failure or delay by either party to exercise any right or power under this Agreement will not operate as a waiver of such right or power. For a waiver to be effective, it must be in writing signed by the waiving party. An effective waiver of a right or power will not be construed as either a future or continuing waiver of that same right or power, or the waiver of any other right or power.

8.4. Customer may not assign any of its rights under this Agreement without Motorola's prior written consent.

8.5. This Agreement, including the exhibits, constitutes the entire agreement of the parties regarding the covered maintenance and support services and supersedes all prior and concurrent agreements and understandings, whether written or oral, related to the services performed. Neither this Agreement nor the Exhibits may not be altered, amended, or modified except by a written agreement signed by authorized representatives of both parties. Customer agrees to reference this Agreement on all purchase orders issued in furtherance of this Agreement. Neither party will be bound by any terms contained in Customer's purchase orders, acknowledgements, or other writings (even if attached to this Agreement).

8.6. This Agreement will be governed by the laws of the United States to the extent that they apply and otherwise by the laws of the State to which the Products are shipped if Licensee is a sovereign government entity, or the laws of the State of Illinois if Licensee is not a sovereign government entity.

## **Section 9. CERTIFICATION DISCLAIMER**

Seller specifically disclaims all certifications regarding the manner in which Seller conducts its business or performs its obligations under this Agreement, unless such certifications have been expressly accepted and signed by an authorized signatory of Seller.

## **Section 10. COMPLIANCE WITH APPLICABLE LAWS**

The Parties will at all times comply with all applicable regulations, licenses and orders of their respective countries relating to or in any way affecting this Agreement and the performance by the Parties of this Agreement. Each Party, at its own expense, will obtain any approval or permit required in the performance of its obligations. Neither Seller nor any of its employees is an agent or representative of Customer



IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed as of the day and year first written above.

**MOTOROLA, INC.**

**DAVIE POLICE DEPARTMENT**

By: \_\_\_\_\_ By: \_\_\_\_\_

Name: Joseph Raposa Name: \_\_\_\_\_

Title: Director, Customer Support Title: \_\_\_\_\_

Date: \_\_\_\_\_ Date: \_\_\_\_\_

MAINTENANCE AND SUPPORT AGREEMENT NO. 0021460-000  
 CUSTOMER: Davie Police Department

[illegible]

**Exhibit B**  
**SUPPORT PLAN**

**MAINTENANCE AND SUPPORT AGREEMENT NO.**     002146-000

**CUSTOMER:**     Davie Police Department

This Support Plan is a Statement of Work that provides a description of the support to be performed.

1.     Services Provided. The Services provided are based on the Severity Levels as defined herein. Each Severity Level defines the actions that will be taken by Seller for Response Time. Because of the urgency involved, Seller will make every reasonable effort to provide a temporary or work around solution. When a permanent solution is developed and certified through testing, it will be incorporated in to the applicable Supplemental and or Standard Release.

SEVERITY LEVEL	DEFINITION	RESPONSE TIME
1	Total System Failure - occurs when the System is not functioning and there is no workaround; such as a Central Server is down or when the workflow of an entire agency is not functioning.  This level is meant to represent a major issue that results in an unusable System, Subsystem, Product, or critical features. No work around or immediate solution is available.	Telephone conference within 1 hour of initial voice notification
2	Critical Failure - Critical process failure occurs when a crucial element in the System that does not prohibit continuance of basic operations is not functioning and there is usually no suitable work-around. Note that this may not be applicable to intermittent problems.  This level is meant to represent a moderate issue that limits a Customer's normal use of the System, Subsystem, Product or major non-critical features.	Telephone conference within 3 Standard Business Hours of initial voice notification
3	Non-Critical Failure - Non-Critical part or component failure occurs when a System component is not functioning, but the System is still useable for its intended purpose, or there is a reasonable workaround.  This level is meant to represent a minor issue that does not preclude use of the System, Subsystem, Product, or critical features.	Telephone conference within 6 Standard Business Hours of initial notification
4	Inconvenience - An inconvenience occurs when System causes a minor disruption in the way tasks are performed but does not stop workflow.  This level is meant to represent very minor issues, such as cosmetic issues, documentation errors, general usage questions, and product or System Update requests.	Telephone conference within 2 Standard Business Days of initial notification
5	Customer request for an enhancement to System functionality is the responsibility of Seller's Product Management.  This level is meant to represent recommendations for product enhancements or modifications.	Determined by Seller's Product Management.



1.1 Reporting a Problem. Customer will assign an initial Severity Level for each error reported, either verbally or in writing, based upon the definitions listed above. Because of the urgency involved, Severity Level 1 or 2 problems must be reported verbally to the Seller's call incoming center. Seller will notify the Customer if Seller makes any changes in Severity Level (up or down) of any Customer-reported problem.

1.2 Seller Response. Seller will use best efforts to provide Customer with a resolution for Severity 1 and Severity 2 issues within a reasonable time and in accordance with the assigned Severity Level when Customer allows timely access to the System and Seller diagnostics indicate that a Residual Error is present in the Software. Should Customer report an error that Seller cannot reproduce, Seller may enable a detail error capture/logging process to monitor the System. If Seller is unable to correct the reported Residual Error within a reasonable time, Seller will escalate its procedure and assign such personnel or designee to correct such Residual Error promptly. Should Seller, in its sole discretion, determine that such Residual Error is not present in its Release, Seller will verify: (a) the Software operates in conformity to the System Specifications, (b) the Software is being used in a manner for which it was intended or designed, and (c) the Software is used only with approved hardware or software.

1.3 Error Correction Status Report. Seller will provide verbal status reports on Severity Level 1 and 2 Residual Errors. Written status reports on outstanding Residual Errors will be provided to System Administrator on a monthly basis.

## 2. Customer Responsibility.

2.1 Customer is responsible for running any installed anti-virus software.

2.2 Operating System ("OS") Upgrades. Unless otherwise stated herein, Customer is responsible for any OS upgrades to its System. Before installing any OS upgrade, Customer will contact Seller to verify that a given OS upgrade is appropriate.

## 3. Seller Responsibility.

3.1 Anti-virus software. At Customer's request, Seller will make every reasonable effort to test and verify specific anti-virus, anti-worm, or anti-hacker patches against a replication of Customer's application. Seller will respond to any reported problem as an escalated support call.

3.2 Customer Notifications. Seller will provide access to (a) Field Changes; (b) Customer Alert Bulletins; and (c) hardware and firmware updates, as released and if applicable.

3.3 Account Reviews. Seller will provide annual account reviews to include (a) service history of site; (b) downtime analysis; and (c) service trend analysis.

3.4 Remote Installation. At Customer's request, Seller will provide remote installation advice or assistance for Updates.

3.5 Software Release Compatibility. At Customer's request, Seller will provide: (a) current list of compatible hardware operating system releases, if applicable; and (b) a list of Seller's Software Supplemental or Standard Releases

3.6 On-Site Correction. Unless otherwise stated herein, all suspected Residual Errors will be investigated and corrected from Seller's facilities. Seller will decide whether on-site correction of any Residual Error is required and will take appropriate action.

4. Decision Support System ("DSS") Products. *(Applies to Motorola's PremierCAD Software only).* The CAD DSS products are supported on a consultative basis only with annual consultation hours not to exceed eight (8) hours. Any additional consultation will be invoiced on a time and material basis at Seller's then current rates for professional services.

5. Compliance to Local, County, State and/or Federal Mandated Changes. *(Applies to Software and interfaces to those Products)* Unless otherwise stated herein, compliance to local, county, state and/or federally mandated changes, including but not limited to IBR, UCR, NCIC and state interfaces are part of the covered Services.

6. Annual System Performance Review and Report. Seller will prepare the following reports to include:

6.1 *(Applies to PremierCAD Software only)*

- |                          |              |  |
|--------------------------|--------------|--|
| (a) System Analysis      | MEASURE:     | Evaluate disk and CPU load                                       |
|                          | PEEK:        | Evaluate memory availability and use                             |
|                          | VIEWSYS:     | Evaluate use and availability of PCBs                            |
|                          | EMSA/TMDS:   | Review logs for hardware reports                                 |
|                          | File Sizing  | Review file sizing on changeable files                           |
| (b) Pathway Analysis     |              | Evaluate effectiveness of system configuration for current load  |
|                          |              | Evaluate TCP/Server statistics                                   |
|                          |              | Evaluate efficiency of server class maximum and minimum settings |
| (c) Performance Analysis | TMX Timings: | Evaluate application response times                              |

6.2 *(Applies to Motorola® Computer Aided Dispatch Software installed on Stratus ftServer only)*

Update Equipment drivers  
Upload Equipment patches, hot fixes and firmware  
Evaluate effectiveness of System configuration for current load based upon overall CPU Utilization

6.3 Based on the Annual System Performance Review and Reports, Seller's Technical Support Analyst will review findings and recommend software or hardware changes to improve overall operations.

*(The below listed terms are applicable only when the Maintenance and Support Agreement includes (a) Equipment which is shown on the Description of Covered Products, Exhibit A to the Maintenance and Support Agreement; or (b) CAD HP NonStop S-Series hardware in addition to the Seller CAD Software.)*

7. On-site Product Technical Support Services. Seller will furnish labor and parts required due to normal wear to restore the Equipment to good operating condition.

7.1 Seller Response. Seller will provide telephone and on-site response to Central Site, defined as the Customer's primary data processing facility, and Remote Site, defined as any site outside the Central Site, as shown in Support Plan Options and Pricing Worksheet.

7.2 At Customer's request, Seller will provide continuous effort to repair a reported problem beyond the PPM. Provided Customer gives Seller access to the Equipment before the end of the PPM, Seller will extend a two (2) hour grace period beyond PPM at no charge. Following this grace period, any additional on-site labor support will be invoiced on a time and material basis at Seller's then current rates for professional services.



### 7.3 CAD HP NonStop S-Series Service Plans

#### 7.3.1 The following HP electronic support tools are available:

Express Notice	A proactive email notification of new software releases, announcements and updates
Scout for NonStop Servers	Once registered, users have the ability to perform interim product modification (IPM) analysis on NonStop Kernel systems and to download IPMs electronically.
Total Information Manager (TIM)	A CD collection of support documentation shipped with the initial system.
Knowledgebase for NonStop Support (KBNS)	Once registered, users have access to a powerful search tool offering quick and easy access to previously answered technical support questions.

#### 7.3.2 HP NonStop S-Series Service Plan:

Continuous Availability	The PPM is 24 hours a day, 7 days a week. On-site response time is within two (2) hours. Includes on-site coverage for national holidays.
High Availability	The PPM is 24 hours a day, 7 days a week. On-site response time is within four (4) hours. Includes on-site coverage for national holidays.
Enhanced Availability	The PPM is 8 a.m. – 5 p.m. Monday-Friday, excluding national holidays. On-site response time is next business day.

#### 7.4 Under all CAD HP NonStop Series hardware service plans, coverage will include:

- Perform corrective or scheduled preventive service during the PPM specified in the Plan.
- Log all service requests and furnish telephone and/or on-line diagnostic services from the Seller's call intake center or the HP Nonstop Support Center (CTNSC) 24 hours per day, 7 days per week.
- Furnish all labor, parts, materials, and on-site service during the PPM as necessary to ensure HP NonStop Series hardware is operating in accordance with applicable published specifications. Replacement parts will be new or equivalent of new in performance. Replaced parts will become the property of HP.
- Install any mandatory Field Change Order(s) required for the safety or proper operation of maintained HP NonStop Series hardware.
- Assign an HP Customer Engineer and an alternate who will be responsible for providing service.
- Provide on an annual basis (i) equipment inventory of maintained HP NonStop Series hardware; and (ii) planning meeting to discuss the current Service Plans and Customer's future requirements.



## Exhibit C

## SUPPORT PLAN OPTIONS AND PRICING WORKSHEET

Maintenance and Support Agreement # 002146-000

Date July 15, 2007

Term Effective Start November 1, 2007

End October 31, 2008

**CUSTOMER:** Davie Police Department  
 Address (1): 1230 South Nob Hill Rd.  
 Address (2):  
 CITY, STATE, ZIP CODE: Davie, FL 33324  
**CONTACT NAME:** Gary Kilam  
 CONTACT TITLE  
 TELEPHONE: (954) 693-8235  
 FAX:  
 Email:

**BILLING AGENCY:** Davie Police Department  
 Address (1): 1230 South Nob Hill Rd.  
 Address (2):  
 CITY, STATE, ZIP CODE: Davie, FL 33324  
**CONTACT NAME:**  
 CONTACT TITLE  
 TELEPHONE:  
 FAX:  
 Email:

For support on products below, please contact Customer Support at (800) 323-9949 Option 2, Option 6, then select the from the correct product prompts.

- |  |  |  |
|--|--|--|
| <input type="checkbox"/> PremierCAD™                     | <input type="checkbox"/> Motorola® Computer Aided Dispatch | <input type="checkbox"/> CAD HP NonStop™ Series hardware |
| <input type="checkbox"/> RMS Infotrak™                   | <input type="checkbox"/> Offendertrak™                     | <input type="checkbox"/> Imagetrak™                      |
| <input type="checkbox"/> NetRMS                          | <input type="checkbox"/> CRIS - Predecessor to NetRMS      | <input type="checkbox"/> Cruiser - FBR Replacement       |
| <input type="checkbox"/> Customer Service Request System | <input type="checkbox"/> Case Management System            | <input type="checkbox"/> License Permitting System       |
| <input type="checkbox"/> Enhancements to Products        | <input type="checkbox"/> Custom Software                   | <input type="checkbox"/> Integration Framework           |
| <input checked="" type="checkbox"/> Premier MDC™         | <input type="checkbox"/> AirMobile™                        | <input type="checkbox"/> TxMessenger™                    |

## MOTOROLA SOFTWARE SUPPORT

## TERM FEE

- ☒ GOLD / GOLDtrak \$ 43,900.00
- ♦ 24 hours a day, 7 days a week PPM
  - ♦ Supplemental Releases
  - ♦ Standard Releases
  - ♦ Technical Support Services

MOTOROLA SOFTWARE SUPPORT TOTAL \$ 43,900.00

## OTHER AVAILABLE OPTIONS

## TERM FEE

- ☐ Users Conference Attendance (\$2,650 per Attendee)

Year

Number Attendees

\$ N/A

- Registration fee
- Roundtrip travel for event (booked by Motorola)
- Hotel accommodations (booked by Motorola)
- Rental car (booked by Motorola)
- Daily meal allowance (determined by Motorola guidelines)

- ☐ Consulting Services - 8 Hour Blocks (plus travel fees)

\$ N/A

- ☐ Other:

\$ N/A

OTHER OPTIONS TOTAL \$ N/A

Prepared by: Elizabeth Collins, (714) 238-2079, WNVK36@motorola.com

FULL TERM FEE GRAND TOTAL\* \$ 43,900.00

\*Exclusive of taxes if applicable

**Exhibit D**  
**CURRENT BILLABLE RATES**

**MAINTENANCE AND SUPPORT AGREEMENT NO.**      002146-000  
**CUSTOMER:**      Davie Police Department

The following are Motorola's current billable rates, subject to an annual change.

The following rates apply to Customers with a current, active Maintenance and Support Agreement. Billable rates apply to services provided outside of the PPM.

<b>SERVICE HOURS</b>	<b>LABOR RATES</b>
8 a.m.-5 p.m. M-F (local time)	\$186 per hour, 2 hours minimum
After 5 p.m., Saturday, Sunday, Motorola Holidays	\$279 per hour, 2 hours minimum

The following rates apply to Customers without a current, active Maintenance and Support Agreement.

<b>SERVICE HOURS</b>	<b>LABOR RATES</b>
8 a.m.-5 p.m. M-F (local time)	\$372 per hour, 2 hours minimum
After 5 p.m., Saturday, Sunday, Motorola Holidays	\$558 per hour, 2 hours minimum

Note: Above rates reflect labor rate only. Additional fees for on-site travel expenses, third party expenses and/or materials will be quoted at the time of customer request for services.

